

Zoning Board of Adjustment

Minute Record March 22, 2023

The Zoning Board of Adjustment met at 7:00p.m. on March 22, 2023, at the Municipal Building, 142 No. 7th Street, Seward, Nebraska. Upon roll call the following Board Members were present: Jacob Miller, Tim Janousek, Greg Voss, and Dan Ellis. Other Officials present: Zoning Administrator, Tim Dworak, and Municipal Building Administrative Assistant, Sara Van Cura.

Absent members were: Tim Janousek

All proceedings hereafter shown were taken while the convened meeting was open to the public. The meeting with the Board of Adjustment was called to order by Board Chairperson Ellis at 7:00p.m. He requested that all individuals speaking during the public hearing limit their comments to five minutes.

Minutes

1. Consideration of Approval of Draft Minutes of November 30, 2022.
Moved by Voss and seconded by Miller, to approve the minutes.

Aye: Miller, Vancura, Voss, Ellis.
Nay: None
Absent: Janousek. Motion carried.

Public Hearing

1. 7:00pm: Plex Construction application for a variance from the requirements of ULDO 410-32.8 Fence Regulations from property located at Lot 4, CNG 1st Addition, commonly referred to as 353 S 3rd St.

Chairperson Ellis opened the public hearing.

Dworak stated they are seeking a variance in the height of the fence. We had two issues with this property. One, it takes place in the right-of-way, and second, the height of the fence. The structure in the ROW was handled at the February 21st City Council meeting. They approved to allow to have a fence in the right-of-way. Plex had asked Black Hills to paint the cabinet, but they came back with what is there now. We call it an attractive nuisance but to kids it would be a jungle gym. Safety became a big concern. There's no sight triangle or driveway issues. It will be more than two feet off the sidewalk. Black Hills has offered to install the fence as long as we have it approved.

Chairperson Ellis closed the public hearing.

Chairperson Ellis asked for a motion and second.

Vancura moved to approve the variance and Voss seconded.

Voss asked if Black Hills would remove the yellow jungle gym and will the six feet cover it.

Kyle, with Plex Construction, stated he was hoping they'd remove it, and that 6 foot is pretty standard and should cover most of it.

Miller asked if Black Hills has to notify the City for this work.

Dworak stated that they do, and they are really good about it. The permit they submitted had the map showing it farther north. In order to move this structure, black hills stated it would take about \$500,000 to do so. From the city's side we are looking at it more for a safety aspect.

Miller asked if there is an emergency, and they have to plow through the fence who would repair it.

Kyle stated that they will have an HOA set up with a fund to pay for the repair of the fence.

Chairperson Ellis stated all six of these conditions have to be satisfied to approve the variance.

Question 1: Strict application of the zoning regulations will produce undue hardship.

Aye: Miller, Vancura, Voss, Ellis.

Nay: None.

Question 2: Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

Dworak stated there are five of these locations and this is the only one in a residential neighborhood.

Aye: Miller, Vancura, Voss, Ellis.

Nay: None.

Question 3: The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.

Aye: Miller, Vancura, Voss, Ellis.

Nay: None.

Question 4: The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

Aye: Miller, Vancura, Voss, Ellis.

Nay: None.

Question 5: The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these zoning regulations.

Aye: Miller, Vancura, Voss, Ellis.
Nay: None.

Question 6: The granting of this variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any ordinance or resolution.

Aye: Miller, Vancura, Voss, Ellis.
Nay: None.

Motion Carries

2. Reports

3. Agenda Items

None

Meeting adjourned at 9:06 PM.

Sara Van Cura
Administrative Assistant